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Importance of Legal Education for Quantity Surveying Professionals: A Proposal For Developing A Legal Studies Module for Malaysian System

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ABSTRACT

Teaching law to non law students raises concerns such as the relevance and extent of the content, ways of engaging the students, purpose of the modules and the learning outcome as well as the teaching pedagogy which facilitates the teaching and learning and delivery of knowledge. This article seeks to identify these issues to justify the need to incorporate legal education for professionals involved in land development and built environment professions in Malaysia coupled with the appropriate teaching pedagogy. The proposal aims at developing a legal studies module for the Malaysian system. Various methods engaged by the authors are explored, with particular concentration on the introduction of case studies / scenarios at an early stage of studies to ensure the relevance and practicality of the course, in the context of future careers, is better understood by all students. Quantity Surveyors profession provides the parties involved in construction advice and services associated with procurement, value and cost of projects from inception to completion, contract administration, project management, costing and other aspects concerning land development and building construction. The various areas of work involving the Quantity Surveyors require quite a substantial knowledge of various disciplines of law to meet the clients' expectation of the service offered by quantity surveyors and this coupled with greater competition both internally (from the profession) and externally that has resulted in a challenge to their professional status. To meet these challenges quantity surveyors need to enhance their professionalism and status in order that practitioners can maintain a competitive advantage. Legal knowledge is an important key feature of the surveyor's portfolio and therefore can help to improve their expertise. As the quantity surveying profession is subject to challenges and competition the proposed paper will explore the rationale for incorporating legal education for Quantity Surveyors profession and the suggested legal studies modules to equip these professionals with the relevant legal related knowledge and skills.

Key word: Legal Education, Surveyors, Curriculum, Legal Studies.

Introduction

Quantity Surveyors profession assumes an important position in the construction industry. This is because it is required to provide clients with advice and services associated with procurement, value and cost of projects from inception to completion, contract administration and project management. Quantity Surveyors also provide clients with costing and work with projects from inception to demolition across a wide range of schemes besides the construction industry including those in Civil Engineering, Offshore Engineering, Oil and Petrochemical Industries. Due to the diversification and changing needs in the profession of the quantity surveyors and the construction industry, it is important to produce well qualified and competent graduates to meet the challenges and the increasing demand of the profession (Zakaria, Che Munaim, and Khan, 2006).

Rationale for Including Legal Education Module in the Quantity Survey Curriculum:

Legal education is no longer exclusive to law students. Many tertiary education and degree programmes are also seeking to incorporate legal components to equip graduates with the legal knowledge required by a particular profession. This is also an accreditation requirement set by the professional bodies governing the respective professions. In analyzing the Quantity Surveyor's profession which is an integral and important profession with the construction industry, it is discovered that a graduate who is qualified must be adequately trained to advise on all aspects of construction costs, financial and contractual administration. The professional is an expert on the cost and management of construction projects, whether building, civil or heavy engineering. Throughout the world, Quantity Surveyors are working on projects as diverse as housing, commercial property developments, hospitals, mosques, petrochemical plants, highways, dams and airports. There are more than

1000 qualified Quantity Surveyors in Malaysia and a few hundred more in training for the profession. Whenever any building project is proposed, it is important that the cost involved is known in advance. These include site preparation cost, construction, labour, material and plant costs, professional fees, taxes and other charges as well as the likely running and maintenance costs for the new building.

Traditionally, quantity surveyors in Malaysia are said to be performing primarily, *inter alia* the following roles and functions:

- Provide estimates of costs during the initial stages of the process of construction procurement for the project initiators and during construction;
- Plan the overall cost control of the project, prepare the Bill of Quantities from architectural, engineering and other specialist drawings;
- Describing and preparing the schedules of material, workmanship and the quantities required to be used for the project; and
- Analyse tenders, prepare and analyze cost data and perform contract administration including evaluate interim payments to contractors, assess variations and claims and settle contract accounts.
- Preparing cash flows for the project
- Controlling the cost of labour, plant and materials
- Advising the client on the various contractual methods available and the choice of the contractors Valuing the completed work of the contractor
- Calculating the running and maintenance costs of the project
- Finalising of accounts of the construction project

The function of the Quantity Surveyor within the construction industry is multi-disciplinary and is expected to meet the demands of the construction projects' complexities and sizes. Many quantity surveyors have diversified into providing project and building management services (John, 2002). The roles of quantity surveyors have also been diversified in areas such as oil and gas, taxation, insurance valuation and several other areas. Thus, the reason why Quantity Surveying studies must include various disciplines including law, economics, management, administration, information and communication technology, manufacturing, mathematics, operational matters and many other related aspects. Quantity Surveyors are the financial managers and cost consultants of the construction industry and will have an influence on every stage of the construction process. As a quantity surveyor, one will also be responsible to manage and attend to the followings:

The Department of Quantity Surveying, Kulliyah of Architecture and Environmental Design, IIUM offers the programme of Bachelor in Quantity Surveying. The objective aimed to be achieved by the programme offered by the IIUM is to meet the demand for professionals in the construction industry with sound knowledge of construction economics, construction technology and management. The IIUM programme has also included Islamic comparative perspectives in their programme in order to help instill ethical values that need to be adhered to by the Quantity Surveyor in the course of carrying out his professional duties as the Vicegerent (Caliph) entrusted by God to execute his functions on the Earth within the limits envisaged by Islam. The professional is expected to apply the knowledge to the complex and dynamic situations prevailing within the construction industry and the processes of construction procurement.

The increasing focus of developed nations on the construction industry to contribute to the development of a nations' economy is something that cannot be ignored. Construction industry needs various resources such as finance, labour, material, plant and equipments. Efficient and economical use of resources is vital to the industry and to promote sustainable use in order to benefit the society. Good management of expenditure is essential in achieving economic resource allocation to enhance productivity and to achieve good value for money. All these require all professionals involved in the project to be well trained.

The need for qualified quantity surveyors prompted the local institutions to offer the Quantity Surveyors programme. Table 1 and Table 2 sets out the public and private institutions of higher learning offering the quantity surveyors programme in Malaysia.

Table 1: Public universities offering the quantity surveyors programme in Malaysia.

No.	Public Institutions	Program
1.	MARA University of Technology	Diploma in Quantity Surveying Bachelor of Quantity Surveying (Honours)
2.	University of Technology Malaysia	Diploma in Quantity Surveying Bachelor of Quantity Surveying (Honours)
3.	University of Malaya	Bachelor of Quantity Surveying (Honours)
4.	University of Science Malaysia	Bachelor of Science in Housing, Building and Planning (Quantity Surveying)
5.	International Islamic University Malaysia	Bachelor of Quantity Surveying (Honours)

Table 2: List of Private Institutions offering Quantity Surveyors Programme in Malaysia.

No.	Private Institution	Program
1.	Kolej Inti (Sarawak)	Diploma in Quantity Surveying
2.	Kolej Bersatu Sarawak	Diploma in Quantity Surveying
3.	Institut Teknologi Pertama	Diploma in Quantity Surveying
4.	Institut Teknologi Suria	Diploma in Quantity Surveying
5.	Institut Teknologi Binaan YPJ	Diploma in Quantity Surveying
6.	Institut Eksekutif	Diploma in Quantity Surveying
7.	Kolej ITJ	Diploma in Quantity Surveying
8.	Kolej Universiti Teknologi Antarabangsa Twintech	Diploma in Quantity Surveying & Bachelor of Quantity Surveying (Hons)
9.	Institut Teknologi Imperia	Bachelor of Science in Building Economics & Quantity Surveying
10.	Universiti Tunku Abdul Rahman	Bachelor of Science (Hons) Quantity Surveying
11.	Stamford College	Diploma in Quantity Surveying
12.	Taylor's College	Diploma in Quantity Surveying
13.	IUCTT	Diploma in Quantity Surveying
14.	School of Technology	Certificate in Technology (Quantity Surveying)

Indeed it's a magnimous task imposed upon the academics to produce professionals who can handle the business of the construction industry effectively. In recent years, there has been increasing concern on the quality of surveying graduates joining the profession (Chua, 2000). There are more complaints from employers on the standard and competencies of surveying graduates and that the universities are not providing the appropriate curriculum and course content to meet the changing needs of the profession. In examining the Quantity Surveyor's programme, it is identified that the Quantity Surveyors profession requires sound knowledge not limited to the disciplines of accounting, business management, construction techniques, surveying but also various aspects of the law. Thus, the preceding paragraphs examines the legal module that is necessary for ensuring the Quantity Surveyors are equipped with the relevant knowledge and expertise to meet the needs of the industry.

Proposed/Suggested Legal Curriculum for Quantity Surveyors Programme:

A study of the Quantity Surveyors course shows that it requires acquisition of sound knowledge in various areas of law especially the followings:

- Rights over land, limitations and rights of access (easements and right of way)
- Legal and regulatory compliance in relation to Building construction
- Principles of revenue/taxation law focusing on Capital allowance, capital taxation
- Compulsory acquisition of land (takings of private land) and compensation
- Contract
- Housing management and policy
- Landlord and tenant including leases and tenancies aspects
- Land use planning, development control and sustainable development
- Procurement and tendering
- Sale and purchase of real and personal property
- Company law including secretarial affairs, insolvency, winding up
- Labour disputes, employment contracts
- Occupational safety and health
- Dispute Resolution and Alternative Dispute Resolution Techniques
- Dispute Avoidance Techniques
- Professional Negligence and Indemnity

In order to ensure that all the essential areas are covered, it is proposed for the Legal studies module to be divided into three parts and for each part to focus on different areas of law as follows in order to ensure sufficient coverage.

Legal Studies Part I:

In Legal Studies Part 1, the modules to be taught are Principles of Malaysian Legal System including sources of Malaysian law and legal research methods and administrative law. It is important for students to learn about the Legal System of the country in which they are practicing and where to find the legal resources since they need the skills to assist them later. In the Malaysian Legal System module, students will learn about the system of government, distribution of powers and law making process.

Administrative law is an important component since it provides knowledge about the functions of the government ministries, departments, agencies and other statutory bodies established to supervise the

construction industry. The limits of governmental powers, the immunity as well as the discretion that is allowed to be exercised by the government agencies will be an integral aspect of this part. The extent of control that can be exercised by the courts and its supervisory role over the administrative authorities

This module will prepare the student with the necessary knowledge to promote the learning outcome that promotes the acquisition of knowledge on the type of government administration, the overall management of the government and the role of professionals within the structure. This would be useful in the present business environment where the government has established a public private partnership in promoting efficiency and facilitating greater participation of the private sector to improve the delivery of infrastructure facilities and public service

Legal Studies Part II:

In Part II, the students will be exposed to the areas relating principles of contract law, reading and drafting of construction contracts, procurement and contract administration law, business law, revenue law and negligence principles relating to business management.

Quantity Surveyors are experts in procurement and contract administration in the Built Environment, skills which are recognised and sought after across a wide range of industries including the Petrochemical and Offshore Engineering industries. This module aims to give a basic grounding in contract law, the law of reparation, Occupational Safety and Health law as it applies to the Built Environment and introduces you to a range of standard forms of contract in common use in the Built Environment. It also introduces you to what are considered to be the tradition procurement subsystems adopted.

Legal Studies Part III:

Part three of the legal studies module will focus on aspects relating to land use planning and development control law (town and country planning), building construction, housing law, building maintenance and management, land law, environmental law and land conservation law.

Legal Studies Part IV:

Occupational Safety and Health, torts law, professional negligence and liabilities, professional indemnity and dispute resolution techniques.

Challenges of Teaching Law to Non-Law Students:

Teaching law to students from other disciplines has often been characterized as being secondary and inferior to teaching a law programme itself (Bradney, 1998). Legal education are principally aimed at providing analytical and critical grounding in the theory, principles and philosophy of law, the broader functions of law and the practical efficacy of legal systems, and analysis of case law. Legal education also aims to develop oral and argumentative skills and techniques of legal drafting and writing pleadings and opinions. Legal education prepares students for positions in legal fraternity such as private practice, the judicial and legal services, government and other public service, academia and business.

However, different set of objectives applies to non-law teaching faculties, which incorporates legal module within their respective degree programmes. Many professional courses require students to take law modules as part of their course requirements, but nevertheless require them to acquire certain amount of legal knowledge sufficient for them to form initial views and opinions of an issue or dispute within their profession. However, they have to obtain sound legal advice from a trained legal professional to develop the relevant cause of action to litigate the dispute or resolve it via other dispute resolution mechanism if necessary.

Teaching law subjects to non-law students presents a unique set of challenges:

- The first challenge that is faced by a law teacher is that the students are not 'pure' law students. The students' can be from varying backgrounds, such as the Humanities, 'hard' Sciences, Combined Sciences or Commerce. Many students may not possess the language competence required to handle law subjects which are specialized and need to have acquired certain skills such as reasoning, analytical, problem solving, writing, reading lengthy reports;
- The second factor is that since these students are not being prepared for the legal profession. They are merely studying the legal curriculum to compliment their programme and will be employed in diverse sectors of the real estate industry, such as valuation, property and facilities management, estate agency, property research and consultancy and real estate brokerage. It is essential to determine the extent of coverage of the legal information;

- The written language of law can be unfamiliar, inaccessible (Christudason, 2004) and generally overwhelming (Allen, 2006). Law lecturers must be very experienced in order to simplify the presentation of the legal materials to students from non-legal courses. Those who read law in the earlier days may be heavily immersed in 'black letter' content, unimaginative delivery styles and the traditional domination of the study of sources of law (Ruth and Byles, 2000). It is apparent that the black letter approach is not appropriate to courses where, in particular, (a) the students cannot and may not be inclined to be engaged in the volume of reading and (b) where many subjects have to be covered in less detail.

In an era of widening participation and the atypical student, limited reading may be due to a myriad of reasons such as work and family commitments or health issues and must not simply be seen as a reflection of academic skills on arrival to higher education. A defence or denial of black letter teaching for law students is left for others to consider. We are, then for reasons of practicality and accessibility, into the realms of 'translating' the law rather than having students make extensive use of primary sources. The materials are reduced to a core. Although there are dangers in this there is a considerable need in many of the legal subject areas, to get across a level of 'prophylactic law' - a minimum level of knowledge to avoid dangerous or expensive mistakes in professional life. The recognizing of the legal issues, avoid confusion and causing actual problems, and knowing when to refer to a professional lawyer is what is needed. Law teaching is directly related to the education of future surveyors, rather than an isolated academic frolic.

An emphasis on skills and context rather than purely 'knowledge' has become a feature of the law, as well as non law, curriculum, as encouraged by the Malaysian Qualifying Agency under the Ministry of Higher Education, Malaysia.

This is aimed at promoting greater interaction between law and non law literature and lecturers with an inter-disciplinary relevance that was, previously not the style. The need for promoting learning within the context of the profession is ideally embedded in course objectives and learning outcome on how will the law affect the working life envisaged by the students (Broadbent, 2005). These are some of the problems which the teacher of law on a non law course needs to appreciate and work around in delivering the law module.

The lecturers need to seriously consider regardless of the practical problems, of what the students actually need to get out of their law modules. Identify and prepare benchmarking statements for each module, appreciate professional knowledge and guidance and the contact previous group of students to identify the use of the knowledge they have acquired in the law lectures and how it fits into their practice. This will be useful in formulating a module with the appropriate mix of factual, substantive knowledge and the transferable research and evaluation skills needed on the law modules.

All this will be needed to support '*... diversity, flexibility and learner autonomy*', balanced with the incorporation of the sufficient amount of substantive knowledge (Hinett, 2002). It must be prepared in the context of balancing the fact that, although the course is not to teach future lawyers, yet the importance of transferring the key elements across the disciplines, to encompass the followings:

- Knowledge on the relevant sources of law and how and where to locate the sources efficiently;
- What are the changes possibly taking place in the area of the profession including the need to relate to the socio-economic aspects of a country in influencing changes;
- the ability to understand a problem and identify the legal issues involved by using reasoning; (Cownie, 2004) and
- the ability to go beyond the surface learning of facts, through to a deeper understanding of issues involved, the links and associated complications.
- The need to instill the ethics and values of the profession and how to avoid conflict of interest situations and manage situations of conflict including disasters such as natural disasters.

This latter ambition for our non-law students has often been ignored by vocational law modules which have resorted to a diluted delivery of facts, without the contextual framework offered to law students. We would argue that the context of another profession adds a further requirement, the ability to solve multi-faceted problems which contain a strong legal dimension. In this context law is only one of several competing frameworks, none of which will 'win' but all of which must be reconciled for an optimum technical or client-orientated 'solution'. This is normally at its most evident in practice, and the final assessment of the Malaysian Qualifying Agency can be interpreted in these terms. Within the academic component of professional development, the multi-faceted complexity of professional problem-solving can be developed gradually but with sufficient speed to promote efficient development of understanding and transfer of skills. Therefore, first year students might solve problems within a single dimension, while final year students will have to incorporate several competing academic and professional paradigms.

Although Morris (Morris, 2007) has argued that: '*both students and practitioners alike need to see that various subjects and disciplines are like islands of the sea, all seemingly standing apart and discreet; but the law is the sea itself, and under the covering water, all the islands are actually connected in one*' this is perhaps to overstate the centrality of the law in comparison with the other disciplines. A similar analogy may be drawn for economics or management studies for example; nevertheless the general idea has considerable utility. The

remainder of this paper relates to the attempts to improve the engagement of students and the effectiveness of module delivery as measured by attendance, tutorial engagement, exam performance and the quality of written work.

Developing Specialized Teaching Pedagogy:

The law teacher's role is not limited to assisting students to gain knowledge but also to make students' learning more meaningful and in keeping with the shift in paradigm from teacher-centred to student-centred learning. Towards achieving this, the teacher is required to:

- assist students to apply their knowledge acquired in identifying issues in problems;
- inculcate the skills of legal analysis to some extent, so that students can recognise; the process and attributes of legal analysis in the context of their likely professions;
- help students to assimilate their learning of law subjects with their learning of other subjects;
- enable students to see how law subjects are going to be relevant to them in 'real life', in my case in their careers in the real estate and construction industries

Intellectual skills required by the Malaysian Qualifying Agency and the Higher Education Committee amongst others include

- The ability to define and solve problems
- The ability to analyse, synthesise, summarise and critically evaluate information
- The ability to integrate lines of evidence from a range of sources to support findings and hypotheses
- The ability to appraise academic literature and other sources of information

Practical skills include:

- The ability to apply a range of methods to solve problems
- The ability to present research findings using various methods of presentation
- Ability to work independently and promote teamwork, able to lead a project from the inception to the completion.

Communication skills include:

- The ability to seek out, recognise and use a range of information sources
- The ability to communicate effectively in written and verbal forms
- The ability to use the internet critically for communication and information retrieval using the latest technology

Law is also highlighted as relevant subject matter in the Quantity Surveying '*... law relating to land tenure, use and development of land which could include building control, statutory planning, health and safety, project procurement, dispute resolution, employment legislation, equal opportunities ...*'.

In the understanding and skills section the statement also stresses legal principles and the legal context. In addition to substantive competencies, the overall objectives of the quantity surveying students must demonstrate awareness of the 'professional and commercial implications' of their work and they have an 'up-to-date and developing knowledge of legal and technical matters' relevant to work and the law of the region or country in which they practice

As a step towards enhancing student learning, it is particularly useful to gain an understanding of the theory of student learning styles. If the individual student's style of learning is accommodated the result can be improved attitudes toward learning and an increase in thinking skills, academic achievement and creativity. The teacher must recognise that there is a positive correlation between specific student cognitive styles and the need for teachers to learn instructional styles.

Adopting a variety of instructional modes, appeals to a broader spectrum of students and results in a greater level of engagement. This offers students opportunities to experience reactions to complex and 'real' problems they may face later in their careers in a reasonably 'safe' and unconstrained context, while perhaps being evaluated by another group and/or the teacher. Student achievements are measured by learning outcomes. These learning outcomes distinguish the varying competencies as to what a student will be able to do at the end of a period of study. Learning outcomes are based on eight domains:

1. Knowledge;
2. Practical skill;
3. Social skills and responsibilities;
4. Values, attitudes and professionalism;
5. Communication, leadership and team skills;
6. Problem solving and scientific skill;
7. Information management and lifelong learning skill; and
8. Managerial and entrepreneurial skills.

Learning outcomes are linked to the credit system which gives value to all student learning time. This indeed poses a challenge to the instructors and the students to balance between the delivery of content within the

limited time and the need for students to acquire all the skills set out by the Malaysian Qualifying Agency for all graduates of institutions of higher learning. This requires the adoption of various different strategies to promote effective learning. These strategies will be discussed in the preceding paragraphs.

Adopting Different Strategies for Promoting Learning:

The following strategies are found to be useful in promoting effective learning of legal modules for non law students:

1. Small group discussion techniques – This can be conducted by dividing a large tutorial group of students (usually about 20 students) into smaller groups of 4-5 during class time to consider the issues surrounding a given problem. After 20 minutes of discussion, representative of each group is invited to present the findings of the group to the whole tutorial group;

2. Establishing government agencies and companies - groups of 4-5 students are assigned to form a company and each group to be assigned to particular tasks to work on outside of formal contact time. At the next formal meeting with the instructor, the group will be required to present their findings during the tutorial session to the entire group. This group will be have to prepare paperwork and the set out the aspects involved in setting up the government agencies, registration as a company and all other relevant paperwork that is necessary. The interesting aspect of this method is that the sub-groups can be assigned to research the role and functioning of the different parties involved in the property development process such as developer, project manager, Construction Company, legal firm, government agencies related to construction industry, local authority and other related professionals. These groups will be required to present and discuss with each other to identify the solution to a given problem;

3. Solution and critic groups – each company is assigned a discussion topic for a tutorial. The other companies (groups) constitute 'critics', observing, offering comments and evaluating the presentation;

4. Teach-discuss-answer - at the end of each topic students have to answer short questions and justify their answers. After working on the questions individually, students compare their answers. A whole-class discussion subsequently examines the array of answers that still seem justifiable and the reasons for their validity;

5. Role play, government styled meetings and parliamentary style debates - allow a simulation of real life situations and adoption of different interest groups' value systems in a relatively safe context but able to inculcate skills in presenting and defending ideas.

These methods focus on the process than the solution, and also enable the reaping of the benefits of collaborative and peer learning, social interaction, teamwork, task allocation, effective time management, critical thinking, constructive criticism and confidence building. Most importantly, the learning frameworks of cases and problems used must be developed in consultation with staff members teaching other non-law subjects. This will provide the law teacher with the opportunity to take in issues from the students' other courses and make them find and apply the necessary legal principles to other subjects that they are required to do in their degree programme.

Collaboration with lecturers teaching the core courses for the programme provides a better perspective of the connection for modules covered within the legal studies module has with the overall discipline and also facilitates the incorporation of other issues, enabling students to see the link between and across subjects they study. For example, an integrated case study can straddle issues of valuation and property management in addition to the legal issues. Attempting such a case study provides for students a more valuable learning framework than studying a module in isolation or as a standalone subject.

Identifying and Overcoming Challenges in Teaching Law to Quantity Surveyors Professionals to Promote Effective Learning:

Law is always referred to as something hard, difficult to comprehend and of course jealously guarded by the lawyers. Some Quantity Surveying students clearly and eagerly understand the relevance of law to their profession. However, although, as lawyers we might live and breathe Lord Wright's, '*Law in its own way covers the whole range of human activity - there is no side of life which it does not touch ...*'. Morris suggests that the goal in teaching law to built environment students is twofold: to be able to work intelligently with lawyers, and to keep themselves out of trouble through the practice of '*preventive law and its counterparts, preventive leadership, preventive networking and so on*'.

Conclusion:

Appropriate content in legal studies must be given equal importance in the Quantity Surveyor's programme. This is important to ensure that the Quantity Surveyor has acquired sufficient knowledge in legal disciplines.

Being involved in advising clients, the Quantity Surveyor is expected to have sufficient and reliable legal information even if not indepth. The legal education module proposed above will be able to provide the sound knowledge for the Quantity Surveyors as required by the profession.

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